IN THE CLAIMS

Please cancel without prejudice claims 45, 55 and 59-61 and amend claims 1, 40-44, 46-54, 56-58 and 62 as indicated in the following list of pending claims:

PENDING CLAIMS

1. (Currently Amended) A biopsy instrument for retrieving body tissue from an intracorporeal site within a patient, ~~having a longitudinal axis and~~ comprising:

an elongated shaft which has a distal end adapted for entry into a patient's body, a distal shaft portion proximal to the distal end and an electrically insulated recess in the distal shaft portion; and

an electrosurgical cutting element longitudinally disposed on [[a]] the distal shaft portion ~~of the~~ which has a retracted position within the insulated recess of the distal shaft portion so as to be insulated from body tissue in the retracted position and a radially extended position out of the insulated recess, which is actuatable between [[a]] the ~~radially~~ retracted position and [[a]] radially extended position, ~~relative to said axis,~~ and which is movable in said radially extended position to isolate a desired tissue specimen from surrounding tissue by defining a peripheral margin about said tissue specimen ~~and which is insulated from body tissue in the retracted position~~.

2-39 (Cancelled)

40. (Currently Amended) A instrument assembly for isolating tissue specimen from an intracorporeal site, comprising:

a. an elongate shaft which has a longitudinal axis, [[and]] a distal end, a tissue penetrating tip at the distal end and a distal shaft portion proximal to the distal end with an electrically insulated recess; and

b. an elongated electrosurgical cutting element which is longitudinally disposed on [[a]] the distal shaft portion ~~of the elongate shaft~~, which has a retracted position within the insulated recess of the distal shaft portion and an extended position out of the insulated recess ~~which is radially extendable from a retracted position to an extended position~~, which is electrically insulated from the patient's tissue in the retracted position within the insulated recess, which is configured to be rotated at least in part about the longitudinal axis in ~~a radially~~ the extended ~~arcuate~~ position to electrosurgically isolate a tissue specimen from surrounding tissue; and

c. an electrical conductor configured to electrically interconnect the electrosurgical cutting element to a high frequency electrical power source.

41. (Currently Amended) The instrument assembly of claim 40 wherein the electrosurgical cutting element has a proximal end and a distal end and which is configured to move one end closer to the other end to effect radial extension from the retracted position to the radial extended ~~arcuate~~ position.

42. (Currently Amended) The instrument assembly of claim 41 wherein the electrosurgical cutting element is configured so that the distal end is fixed and the proximal end [[move]] moves toward the distal end.

43. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly, as recited in Claim 40, wherein the electrosurgical cutting element is rotatable about the longitudinal axis while in the radially extended position to isolate said desired tissue specimen.

44. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim 40, wherein the electrosurgical tissue cutting element comprises a monopolar electrode.

45. (Cancelled)

46. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim [[44]] 40, wherein the electrosurgical ~~proximal~~ tissue cutting element comprises a bipolar electrode.

47. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim 40, and further comprising a sheath which is axially movable between distal and proximal positions for selectively covering and uncovering the ~~proximal~~ tissue cutting element.

48. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim 47, and further comprising a proximal driver unit for controlling radial expansion and retraction of the ~~proximal~~ tissue cutting element and rotation of the ~~proximal~~ tissue cutting element about the longitudinal axis.

49. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim 48, wherein the proximal driver unit further controls axial movement of said shaft and axial movement of said sheath.

50. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim 44, wherein the electrosurgical ~~proximal~~ tissue cutting element is configured to be manipulated to segment said tissue specimen after it has been isolated from the surrounding tissue.

51. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim 50, wherein the electrosurgical ~~proximal~~ tissue cutting element is configured to segment the tissue specimen.

52. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim [[51]] 50, wherein the electrosurgical ~~proximal~~ tissue cutting element is configured to segment the tissue specimen as it is being retracted from said radially extended position to said ~~radially~~ retracted position.

53. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim [[51]] 40, wherein the radially extended position comprises a first radially extended position and wherein the electrosurgical cutting element is further actuatable to a plurality of additional radially extended positions and wherein the electrosurgical cutting element is rotatable about the longitudinal axis in each of said radially extended positions to selectively peripherally segment said tissue specimen.

54. (Currently Amended) The ~~system for isolating body tissue~~ instrument assembly as recited in Claim 50, and further comprising a cannula having a lumen for providing a passageway into the patient's body, the segments of the tissue specimen being removable from the patient's body through said cannula.

55. (Cancelled)

56. (Currently Amended) The instrument assembly of claim [[54]] 40 wherein the recess is provided at least in part with a lining of insulating material to insulate the cutting element.

57. (Currently Amended) An electrosurgical tissue cutting device, comprising:

a. [[a]] and elongated body ~~defining~~ having ~~an outer surface,~~ a proximal end, a distal end, a tissue penetrating element on the distal end and a distal portion with an insulated recess ~~and a window defined within the outer surface~~;

b. ~~an electrically insulating layer, and~~ an ~~active~~ electrosurgical tissue cutting element adapted to be electrically connected to a power source and configured to selectively assume a non-deployed configuration ~~in which the insulating layer~~ within the insulated recess to electrically ~~insulates~~ insulate the ~~active~~ electrosurgical tissue cutting element from a patient's tissue and a variable deployed configuration in which the ~~active~~ electrosurgical tissue cutting element at least partially emerges from the window out of the body to make contact with the patient's tissue.

58. (Currently Amended) A method of isolating tissue ~~using~~ from an intracorporeal site, comprising:

a. [[a]] providing an elongated probe which has an electrically insulating recess in a distal portion of the probe, which ~~includes~~ has an ~~active~~ electrosurgical cutting element that is extendable out of and retractable back into ~~a window defined~~ the insulating recess in the probe and that is electrically connected to a power source[[,]] ~~comprising~~[[:]];

[[a]]b. inserting the probe into tissue with the electrosurgical cutting element disposed within the insulating recess;

[[b.]] ~~electrically insulating the active element from the tissue;~~

c. energizing the ~~active~~ electrosurgical cutting element using power from the power source, and

d. ~~exposing~~ advancing the ~~active~~ electrosurgical cutting element through tissue while ~~using~~ energizing the electrosurgical cutting element with power from the power source.

59-61. (Cancelled)

62. (Currently Amended) The system of claim [[61]] 46 wherein the electrosurgical cutting element has an arcuate shape in [[a]] ~~radially~~ in the extended position and is movable in the arcuate shape to isolate a desired tissue specimen from surrounding tissue by defining a peripheral margin about said tissue specimen.